

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Robert A. Anderson,

Civ. No. 20-1147 (KMM/LIB)

Plaintiff,

v.

**PLAINTIFF'S PROPOSED
VERDICT FORM**

William Vanden Avond, acting in his
individual capacity as a Morrison County
Sheriff's Deputy,

Defendant.

Plaintiff respectfully requests that the Court use the attached verdict form.

ROBINS KAPLAN LLP

Date: July 10, 2023

s/Marc Betinsky

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UNITED STATES DISTRICT COURT
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VERDICT FORM

William Vanden Avond, acting in his
individual capacity as a Morrison County
Sheriff's Deputy,

Defendant.

1. On Plaintiff Robert Anderson's claim against Defendant William Vanden Avond,
as submitted in Instruction No. __, we find in favor of:

Robert Anderson

William Vanden Avond

Note: Answer the following questions only if you find in favor of Robert Anderson in
Question 1.

2. We find Robert Anderson's actual damages to be:

\$_____ (state the amount)

3. We award punitive damages in the amount of:

\$_____ (state the amount)

Dated: _____

Foreperson

(continued)

Plaintiff objects to the use of special interrogatories on the verdict form. Plaintiff further objects to the specific interrogatories presented on Defendant's Proposed Special Verdict Form. To preserve his ability to present different interrogatories more tailored to the questions at issue in the event the Court determines such special interrogatories are appropriate, Plaintiff provides the following alternative Special Verdict Form:

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VERDICT FORM

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individual capacity as a Morrison County
Sheriff's Deputy,

Defendant.

1. On Plaintiff Robert Anderson's claim against Defendant William Vanden Avond,
as submitted in Instruction No. __, we find in favor of:

Robert Anderson

William Vanden Avond

Note: Answer the following questions only if you find in favor of Robert Anderson in
Question 1.

2. We find Robert Anderson's actual damages to be:

\$_____ (state the amount)

3. We award punitive damages in the amount of:

\$_____ (state the amount)

Note: Answer Question 4 and Questions 5a through 5j only if you found in favor of Robert
Anderson on Question 1.

4. Did Defendant William Vanden Avond use deadly force when he shot Plaintiff Robert Anderson on May 22, 2019?

Yes

No

5. Would a reasonable officer in William Vanden Avond's position at the moment of the shooting have concluded¹:

5a. That shooting Robert Anderson in the chest with the beanbag was deadly force? _____ Yes _____ No

5b. That firing a beanbag at Robert Anderson's chest was reasonably likely to cause death or serious physical injury? _____ Yes _____ No

5c. That alternatives to shooting Robert Anderson with the beanbag were available at the moment he fired the shotgun? _____ Yes _____ No

5d. That a warning was feasible prior to firing? _____ Yes _____ No

5e. That the distance from the shooting position to Anderson was a safe distance at the moment he fired the shotgun? _____ Yes _____ No

5f. That Robert Anderson was actively resisting arrest at the moment he fired? _____ Yes _____ No

¹ Because qualified immunity is an affirmative defense, *e.g.*, *Waters v. Madson*, 921 F.3d 725, 734 (8th Cir. 2019); *Bradford v. Huckabee*, 330 F.3d 1038, 1041 (8th Cir. 2003), the burden is on Defendant to prove he is entitled to findings in his favor on Questions 5a-5j. *E.g.*, *Shockency v. Ramsey Cnty.*, 493 F.3d 941, 948 (8th Cir. 2007); *Herts v. Smith*, 345 F.3d 581, 585 (8th Cir. 2003) ("The defendant bears the burden of proof on th[e] affirmative defense" of qualified immunity.); *Burnham v. Ianni*, 119 F.3d 668, 674 (8th Cir. 1997) (*en banc*); *but see Monroe v. Ark. State Univ.*, 495 F.3d 591, 594 (8th Cir. 2007).

5g. That Robert Anderson was a risk to escape the officers at the moment he fired? _____Yes _____No

5h. That Robert Anderson was attempting to avoid arrest by flight at the moment he fired? _____Yes _____No

5i. That Robert Anderson posed an immediate threat to the safety of officers at the moment he fired? _____Yes _____No

5j. That Robert Anderson posed an immediate threat of death or serious bodily injury to officers at the moment he fired?
_____Yes _____No